

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1449 OF 2003**

Smt. Suvarna Jayawantrao @

Jayant Patil & Ors.

..Appellants

versus

M. Malayappan & Anr.

..Respondents

Mr. Tejpal S. Ingale for the Appellants.

Mr. S. Deshpande for the Respondent No.2.

CORAM : D. G. DESHPANDE, J.

DATE : 8TH APRIL, 2005

ORAL ORDER :

1. Heard counsel for the appellants - claimants and the respondent No.2 Insurance Company.

2. This appeal is filed by the original claimants against the order of rejection of their claim petition by the MACT Kolhapur. Admittedly the claimants had no personal knowledge of the accident. They relied upon the FIR and other documents. The Tribunal found certain deficiencies in the FIR and refused to rely upon that document to connect the

owner of the vehicle - respondent No.1 as being negligent in the accident and therefore the applicants claim.

3. In fact if all the papers of investigation were on record it was necessary for the claimants to examine Police Officer so that there could be some evidence to connect the respondent No.1 to the accident. That has not been done by the claimants and therefore the appeal came to be dismissed. However, looking to the nature of the accident and the aforesaid facts this matter requires to be remanded back to the Tribunal again for enabling the parties to prove their respective contentions. Therefore, order :

ORDER

. The impugned order is set aside.

. Matter is remanded back to MACT, Kolhapur for decision according to law. The Tribunal will give opportunity to both the claimants and the respondents to lead whatever evidence they want and then after hearing the parties, will decide the case according to law. Both the parties agree not to take unnecessary adjournments. Parties to appear before MACT Kolhapur on 28.4.2005. Tribunal to

decide the matter within four months from the date of appearance of the parties i.e. 28.4.2005.

. Appeal disposed of accordingly. No order as to costs.

. In view of the above, Civil Application No. 3941 of 2003 does not survive, the same stands disposed of accordingly.

. Certified copy expedited.

8.04.2005

(D.G. DESHPANDE, J.)